

ORIGINAL

NEW APPLICATION



0000103125

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

KRISTIN K. MAYES, Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

2009 OCT 20 P 3:00

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

In the matter of:

LARRY WAYNE ZIEGLER (a/k/a Zig
Ziegler), a single man,

TROY DEE TRUVILLION and JENIA
DIMITROVA, husband and wife,

and

MOTION DNA, INC., a Nevada corporation

Respondents.

DOCKET NO. S-20708A-09-0499

**NOTICE OF OPPORTUNITY FOR HEARING
REGARDING PROPOSED ORDER TO
CEASE AND DESIST ORDER FOR
RESTITUTION FOR ADMINISTRATIVE
PENALTIES AND FOR OTHER
AFFIRMATIVE ACTION**

NOTICE: EACH RESPONDENT HAS 10 DAYS TO REQUEST A HEARING

EACH RESPONDENT HAS 30 DAYS TO FILE AN ANSWER

The Securities Division ("Division") of the Arizona Corporation Commission ("Commission") alleges that respondents LARRY WAYNE ZIEGLER (a/k/a ZIG ZIEGLER), a single man, TROY DEE TRUVILLION, a married man, and MOTION DNA, INC., a Nevada corporation, have engaged in acts, practices, and transactions that constitute violations of the Securities Act of Arizona, A.R.S. § 44-1801 *et seq.* ("Securities Act").

I.

JURISDICTION

1. The Commission has jurisdiction over this matter pursuant to Article XV of the Arizona Constitution and the Securities Act.

Arizona Corporation Commission
DOCKETED

OCT 20 2009

DOCKETED BY

II.

RESPONDENTS

2. MOTION DNA, INC. ("MDNA") is a Nevada corporation which was incorporated on January 9, 2004. MDNA'S principal place of business is Scottsdale, Arizona.

3. Pursuant to the records of the Nevada Secretary of State, LARRY WAYNE ZIEGLER (a/k/a Zig Ziegler) ("ZIEGLER") is, and has been at all relevant times, the President of MDNA.

4. ZIEGLER is a single man who, resided in Scottsdale, Arizona before relocating to San Diego, California in June 2008.

5. TRUVILLION is a married man who, at all relevant times, has resided in Chandler, Arizona.

6. JENIA DIMITROVA ("DIMITROVA") was at all relevant times the spouse of TRUVILLION. DIMITROVA may be referred to as "RESPONDENT SPOUSE."

7. DIMITROVA is joined in this action under A.R.S. § 44-2031(C) solely for purposes of determining the liability of the marital community.

8. At all times relevant, Respondent TRUVILLION was acting for his own benefit and for the benefit or in furtherance of the marital community.

9. ZIEGLER, TRUVILLION, MDNA, may be referred to individually or, collectively, as "RESPONDENTS".

III.

FACTS

10. From about April 2008 until August 2008, ZIEGLER and TRUVILLION offered and sold company stock in MDNA, within or from Arizona.

11. ZIEGLER and TRUVILLION told investors that the funds raised would be used as capital by MDNA to register as a publicly traded company.

12. TRUVILLION told at least three investors in June 2008 that MDNA stock would become a publicly traded company within 10 to 28 days from the date of their investments.

13. ZIEGLER and TRUVILLION represented to offerees and investors that MDNA'S technology is used to evaluate and analyze human movement.

14. ZIEGLER and TRUVILLION told investors that the information the information collected by MDNA'S technology could be used by amateur, collegiate and professional athletes as well as their coaches and trainers to improve athletic performance.

15. In addition, ZIEGLER and TRUVILLION represented to investors that MDNA'S technology would prevent and detect sports related injuries.

16. TRUVILLION told at least one offeree and investor that MDNA'S technology could be used by the motion picture industry in making films as well as the nation's government to improve national security.

17. In at least one instance, ZIEGLER and TRUVILLION told an offeree and investor that an investment in MDNA would be profitable.

18. TRUVILLION represented to offerees and investors that the purchase price of MDNA stock was \$1.00 per share. TRUVILLION told offerees and investors that the value of the company's stock would increase to \$5.00 to \$15.00 per share after the company became publicly traded.

19. MDNA was not registered as a publicly traded company within the relevant period.

20. ZIEGLER and TRUVILLION raised at least \$470,000 from approximately 5 investors who believed they were purchasing stock in MDNA.

21. ZIEGLER and TRUVILLION instructed investors to make their investments in MDNA payable to other entities, although the investors believed they were investing in MDNA. Neither ZIEGLER nor TRUVILLION informed investors why this was necessary.

22. TRUVILLION instructed at least one offeree and investor to make her investment in MDNA payable to TTZZ PARTNERSHIP 7 (a/k/a TTZZ Partnership) ("TTZZ"), a general

1 partnership. Upon information and belief, ZIEGLER and TRUVILLION are the sole partners of
2 TTZZ.

3 23. TRUVILLION was the sole signor for the TTZZ bank account in which investor
4 funds were deposited.

5 24. In another instance, ZIEGLER instructed at least one offeree and investor to make
6 his investment in MDNA payable to PHOENIX PERFORMANCE ENHANCEMENT GROUP,
7 LLC (a/k/a PHOENIX PERFORMANCE ENHANCEMENT) ("PPEG"), an Arizona limited
8 liability company.

9 25. Pursuant to a search of Commission records, at all relevant times, ZIEGLER was a
10 Manager and sole Member of PPEG.

11 26. ZIEGLER was the sole signor for the PPEG bank account in which investor funds
12 were deposited.

13 27. On another occasion, TRUVILLION instructed an offeree and investor to make her
14 investment in MDNA payable to VIRSYS PERFORMANCE GROUP, INC. ("VIRSYS
15 GROUP"). VIRSYS GROUP is a Nevada corporation which was administratively dissolved on July
16 1, 2009 for failing to file an annual list of officers.

17 28. Pursuant to a search of Commission records, VIRSYS GROUP is not an entity
18 registered with the Commission. In addition, VIRSYS GROUP is not a registered trade name with
19 the Arizona Secretary of State.

20 29. ZIEGLER was an authorized signor for the VIRSYS GROUP bank account in
21 which investor funds were deposited.

22 30. ZIEGLER and TRUVILLION represented to investors that their investments were
23 for the purchase of company stock in MDNA. However, in all instances, MDNA investors received
24 company stock in either Future Films, Inc., a Nevada corporation, or TruSeven, Inc., a Delaware
25 corporation.
26

31. None of the investors in MDNA received their stock in MDNA. MDNA did not issue company stock certificates to investors.

32. Neither ZIEGLER nor TRUVILLION informed investors prior to investing that they would receive stock in any company other than MDNA.

33. On more than one occasion, TRUVILLION failed to ask MDNA investors if they could withstand the loss of their investments.

34. ZIEGLER and TRUVILLION each used funds raised from MDNA investors to pay their own personal expenses, including the purchase of a luxury vehicle, electronics, interior design services, make mortgage payments and withdraw cash.

IV.

VIOLATION OF A.R.S. § 44-1841

(Offer or Sale of Unregistered Securities)

35. From about April 2008 until August 2008, Respondents offered or sold securities in the form of company stock in MDNA, within or from Arizona.

36. The securities referred to above were not registered pursuant to Articles 6 or 7 of the Securities Act.

37. This conduct violates A.R.S. § 44-1841.

V.

VIOLATION OF A.R.S. § 44-1842

(Transactions by Unregistered Dealers or Salesmen)

38. From about April 2008 until August 2008, Respondents offered or sold securities within or from Arizona while not registered as dealers or salesmen pursuant to Article 9 of the Securities Act.

39. This conduct violates A.R.S. § 44-1842.

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VI.

VIOLATION OF A.R.S. § 44-1991

(Fraud in Connection with the Offer or Sale of Securities)

40. In connection with the offer or sale of securities within or from Arizona, Respondents directly or indirectly: (i) employed a device, scheme, or artifice to defraud; (ii) made untrue statements of material fact or omitted to state material facts that were necessary in order to make the statements made not misleading in light of the circumstances under which they were made; or (iii) engaged in transactions, practices, or courses of business that operated or would operate as a fraud or deceit upon offerees and investors. Respondents' conduct includes, but is not limited to, the following:

a) ZIEGLER and TRUVILLION represented to offerees and investors that their investments in MDNA would be used to take the company public, when in fact MDNA is not, nor has been, registered as a publicly traded company;

b) ZIEGLER and TRUVILLION represented to offerees and investors that the value of MDNA'S stock would increase in value from the purchase price of \$1.00 per share to \$5.00 to \$15.00 per share after MDNA became a publicly traded company, when in fact MDNA did not issue company stock;

c) ZIELGER and TRUVILLION failed to disclose to investors that the companies to which they were directed to make their payments were owned or controlled by ZIEGLER and/or TRUVILLION and that the funds would not be used by MDNA for the purpose the investors intended; and

d) ZIEGLER and TRUVILLION misled investors that the funds they invested would be used by MDNA as capital to register the company as a publicly traded company, when in fact ZIEGLER and TRUVILLION used the funds to pay personal expenses including the purchase of a luxury vehicle, purchase electronics, make mortgage payments and make cash withdrawals.

41. This conduct violates A.R.S. § 44-1991.

VII.

REQUESTED RELIEF

The Division requests that the Commission grant the following relief:

1. Order Respondents to permanently cease and desist from violating the Securities Act, pursuant to A.R.S. § 44-2032;
2. Order Respondents to take affirmative action to correct the conditions resulting from Respondents' acts, practices, or transactions, including a requirement to make restitution pursuant to A.R.S. § 44-2032;
3. Order Respondents to pay the state of Arizona administrative penalties of up to five thousand dollars (\$5,000) for each violation of the Securities Act, pursuant to A.R.S. § 44-2036;
4. Order that the marital communities of Respondents and Respondent Spouse be subject to any order of restitution, rescission, administrative penalties, or other appropriate affirmative action pursuant to A.R.S. § 25-215; and
5. Order any other relief that the Commission deems appropriate.

VIII.

HEARING OPPORTUNITY

Each respondent including Respondent Spouse may request a hearing pursuant to A.R.S. § 44-1972 and A.A.C. R14-4-306. **If a Respondent or a Respondent Spouse requests a hearing, the requesting respondent must also answer this Notice.** A request for hearing must be in writing and received by the Commission within 10 business days after service of this Notice of Opportunity for Hearing. The requesting respondent must deliver or mail the request to Docket Control, Arizona Corporation Commission, 1200 W. Washington, Phoenix, Arizona 85007. Filing instructions may be obtained from Docket Control by calling (602) 542-3477 or on the Commission's Internet web site at <http://www.azcc.gov/divisions/hearings/docket.asp>.

If a request for a hearing is timely made, the Commission shall schedule the hearing to begin 20 to 60 days from the receipt of the request unless otherwise provided by law, stipulated by the

1 parties, or ordered by the Commission. If a request for a hearing is not timely made the Commission
2 may, without a hearing, enter an order granting the relief requested by the Division in this Notice of
3 Opportunity for Hearing.

4 Persons with a disability may request a reasonable accommodation such as a sign language
5 interpreter, as well as request this document in an alternative format, by contacting Shaylin A.
6 Bernal, ADA Coordinator, voice phone number 602/542-3931, e-mail sabernal@azcc.gov.
7 Requests should be made as early as possible to allow time to arrange the accommodation.

8 IX.

9 ANSWER REQUIREMENT

10 Pursuant to A.A.C. R14-4-305, if a Respondent or a Respondent Spouse requests a hearing,
11 the requesting respondent must deliver or mail an Answer to this Notice of Opportunity for
12 Hearing to Docket Control, Arizona Corporation Commission, 1200 W. Washington, Phoenix,
13 Arizona 85007, within 30 calendar days after the date of service of this Notice. Filing instructions
14 may be obtained from Docket Control by calling (602) 542-3477 or on the Commission's Internet
15 web site at <http://www.azcc.gov/divisions/hearings/docket.asp>.

16 Additionally, the answering respondent must serve the Answer upon the Division.
17 Pursuant to A.A.C. R14-4-303, service upon the Division may be made by mailing or by hand-
18 delivering a copy of the Answer to the Division at 1300 West Washington, 3rd Floor, Phoenix,
19 Arizona, 85007, addressed to Rachel F. Strachan, Attorney.

20 The Answer shall contain an admission or denial of each allegation in this Notice and the
21 original signature of the answering respondent or respondent's attorney. A statement of a lack of
22 sufficient knowledge or information shall be considered a denial of an allegation. An allegation
23 not denied shall be considered admitted.

24 When the answering respondent intends in good faith to deny only a part or a qualification
25 of an allegation, the respondent shall specify that part or qualification of the allegation and shall
26 admit the remainder. Respondent waives any affirmative defense not raised in the Answer.

1 The officer presiding over the hearing may grant relief from the requirement to file an
2 Answer for good cause shown.

3 Dated this 20 day of October, 2009.

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6 Matthew J. Neubelt
7 Director of Securities

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